

RECORD REQUEST OF
THE ATTORNEY GENERAL
TO KEYSpan ENERGY DELIVERY NEW ENGLAND

D.T.E. 05-68

Dated: April 6, 2006

Respondent: Elizabeth Arangio

Record Request AG-2

- Q. Please cite to the sections of the Merrill Lynch contract (approved by the Department in D.T.E. 06-9) governing increases in Merrill Lynch's delivery obligation to the Company.
- A. Sections 3.1 and 4.2 of the Company's Agreement for Natural Gas Asset Optimization Services with Merrill Lynch Commodities Inc. ("MLCI") govern changes in MLCI's delivery obligation to the Company during the contract term. The relevant portion of these sections state:

Section 3.1 Release or and Retention of Assets. During the Term, MLCI will meet with KSCS, as agent for KeySpan Utilities, to formulate and discuss Strategies for the Assets. As part of the discussion of the Strategies, KSCS will, on behalf of the KeySpan Utilities, determine in its good faith and commercially reasonable judgment which Assets can best be optimized by MLCI through the use of Strategies that will be considered part of either MLCI Book 1 or MLCI Book 2 and which Assets can be best optimized by Strategies directly implemented by the KeySpan Utilities as part of the KeySpan Utilities Book.

- (a) those Assets which the KeySpan Utilities determine can be best optimized by Strategies directly implemented by MLCI in either MLCI Book 1 or MLCI Book 2 the KeySpan Utilities will release, assign or otherwise provide agency rights to such Assets to MLCI (the "Released Assets").
- (b) Those Assets that are not part of the Released Assets shall be retained by the KeySpan Utilities for optimization (the "Retained Assets").

Section 4.2 MLCI Maximum Daily Quantity The "MLCI MDQ" shall be the aggregate of the volumes listed in Appendix 1 for the Released Assets. Notwithstanding anything to the contrary herein, the MLCI MDQ shall be the volume of Gas up to which the Buyer is entitled to purchase and receive and Seller is obligated to sell and deliver (subject to Buyer's nomination pursuant to the restrictions set forth below) on each Day. Both Buyer and Seller understand that the MLCI MDQ shall be

adjusted periodically to reflect Buyer's Unbundling Program and Daily as a result of the dispatch priority set forth in Section 4.4. The KeySpan Utilities recognize that if the KeySpan Utilities' MDQ exceeds the MLCI MDQ, the KeySpan Utilities will be solely responsible for obtaining all quantities in excess of the MLCI MDQ.

Section 3.1 and Section 4.2 work in combination so that Section 3.1 designates assets as "Retained Assets" or "Released Assets" with any assets released to MLCI representing Released Assets. Section 4.2 obligates MLCI to deliver up to the MDQ of the assets it is holding. Because Retained Assets and Released Assets are subject to change under Section 3.1, MLCI's total MDQ obligation will change in direct relation to the assets it is holding.